



State of Washington
Department of Revenue

Excise Tax Advisory

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REFUNDS BY NONPROFIT COOPERATIVE ASSOCIATION DECLARED PATRONAGE DIVIDENDS

Issued October 20, 1967

May invoices of a nonprofit cooperative association to its members be treated as merely tentative billings, so as to make returned profits deductible as discounts or price reductions, rather than nondeductible patronage dividends?

The taxpayer, a nonprofit cooperative association, made sales of equipment to both members and nonmembers. Since, under the terms of its bylaws, the taxpayer was organized to sell such products to its members at cost, it made rebates or refunds at year-end of any net profit attributable to the transactions with members. The prices at which the merchandise was sold were at the normal or usual competitive prices. At year-end the volume of business done with members was determined and proportionate shares of net profit were refunded.

In reliance on Rule 219, which specifies that patronage dividends paid by cooperative associations are not deductible from gross proceeds of sales, refunds made by the taxpayer to its members were held to be nondeductible and subject to both Business and Sales Tax. The taxpayer contended that the rebates or refunds constituted price reductions or discounts and so should be allowed as deductible. It was further claimed that amounts which could be payable as patronage dividends could not be legally acquired because the bylaws required the taxpayer to make sales at no profit to members. The taxpayer contended that original sales invoices were only tentative billings.

The Department ruled that the rebates or refunds here involved were patronage dividends falling squarely within the language of Rule 219 and that they did not constitute sales discounts or bona fide price reductions in specific items sold. The Revenue Department stated that it was obvious the amounts

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paid to members were most affected, and to a large extent, controlled by (1) expenses of the business and (2) the volume of sales to others. It was also obvious from the manner of accounting and determining the rebates, that they did not relate to the selling price of particular items sold but rather to profits realized as determined by year-end accounting. The situation would not be substantially changed through the device of labeling the invoices as "tentative billings".